

THE STATE OF ARIZONA
CITIZENS CLEAN ELECTIONS COMMISSION

REPORTER'S REVISED TRANSCRIPT OF PUBLIC HEARING

Phoenix, Arizona

March 15, 2006

9:30 a.m.

(Original)

Reported By:

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Certified Reporter (AZ 50127)

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1 A PUBLIC MEETING, BEFORE THE CITIZENS CLEAN
 2 ELECTIONS COMMISSION, convened at 9:30 a.m. on March 15,
 3 2006, at the State of Arizona, Clean Elections
 4 Commission, 1616 W. Adams, Conference Room, Phoenix,
 5 Arizona, in the presence of the following Board members:
 6 Ms. Marcia Busching, Chairperson
 7 Mr. Gary Scaramazzo
 8 Ms. Ermila Jolley (Teleconference)
 9 Mr. Carl Kunasek
 10
 11 OTHERS PRESENT:
 12 Mr. Todd Lang, Executive Director
 13 Ms. Paula Ortiz, Executive Assistant
 14 Ms. Colleen McGee, Fiscal Service Manager
 15 Mr. Michael Becker, Voter Education Manager
 16 Ms. Genevra Richardson, Campaign Finance
 17 Manager
 18 Ms. Diana Varela, Assistant Attorney General
 19 Ms. Barbara Lubin, Clean Elections Institute
 20 Mr. Richard Mays, Citizen
 21 Ms. Lauren Lowe, Perkins Coie Brown & Bain
 22 Ms. Jan Brewer, Secretary of State
 23 Ms. Nancy Read, Office of the Secretary of
 24 State
 25 Mr. Arthur R. Rosen, Aircraft Owner and Pilots
 Association
 Mr. Christian Palmer, Arizona Capitol Times
 Ms. Jan Smith Florez, Candidate for Governor

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1 Commissioner Kunasek and seconded by Commissioner
 2 Scaramazzo that we approve the March 2nd, 2000 [sic]
 3 minutes as prepared. All in favor say, "aye."
 4 (Chorus of ayes.)
 5 CHAIRPERSON BUSCHING: Opposed, nay?
 6 Chair votes aye. Motion carries.
 7 Item III, Executive Director's Report.
 8 MR. LANG: Good morning, Madame Chair,
 9 Commissioners. As you know, we had some bad news which
 10 is that Commission Dierks had to resign for health
 11 reasons, and certainly our thoughts go out to him and
 12 his family.
 13 In the meantime, Secretary Brewer has begun the
 14 process of finding a replacement and we did receive a
 15 copy of her press release. We, of course, always offer
 16 any assistance that she deems useful and necessary.
 17 We're happy to help any way we can. We'll keep you up
 18 to date on how that goes.
 19 Our five-year review was approved by GRRC at
 20 the March 7th meeting, thanks to Genevra Richardson and
 21 Consultant Troy Walters. They did excellent work on the
 22 project and went through with really no problems.
 23 Also I would like to thank Genevra Richardson
 24 for her service to the Commission. Sadly, she has
 25 resigned to take a lobbying position and we, of course,

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1 P R O C E E D I N G
 2
 3 CHAIRPERSON BUSCHING: Good morning. I will
 4 call this meeting of the Citizens Clean Elections
 5 Commission to order. It's Wednesday, March 15th, 2006
 6 at 9:30 a.m. We are located at 1616 West Adams, Suite
 7 110, Phoenix, Arizona.
 8 I note for the record that Commissioners
 9 Scaramazzo, Kunasek, and Busching are present in person
 10 and that Commissioner Jolley is present by telephone.
 11 I will also note that the Commission may vote
 12 to go into executive session which will not be open to
 13 the public for any item listed on the agenda for
 14 obtaining legal advice. All matters on the agenda may
 15 be discussed, considered, and are subject to action by
 16 the Commission.
 17 Moving to Item No. II, approval of the March
 18 2nd, 2006, Commission minutes. Are there additions or
 19 corrections?
 20 If not, the Chair will entertain a
 21 motion.
 22 COMMISSIONER KUNASEK: So moved that we approve
 23 them.
 24 COMMISSIONER SCARAMAZZO: Second.
 25 CHAIRPERSON BUSCHING: It's been moved by

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1 wish her the best of luck. And I am in the process of
 2 finding a replacement for her. I certainly appreciate
 3 it was done this early in the election cycle, of course.
 4 Our participating numbers have slightly changed
 5 since the -- in terms of the report you received. We
 6 now have 114 participating candidates. That's a 60
 7 percent participation rate. That's roughly the
 8 percentage, given the flux and processing going through
 9 right now, we can't get a real exact amount.
 10 The two candidates that received money, as you
 11 know, Secretary Brewer received her funding some time
 12 ago. Clancy Jayne, a state rep candidate in District
 13 Six also received his funding. Slade Mead, a candidate
 14 for Superintendent of Public Instruction received his
 15 funding today. And Carl Seel, another District Six
 16 House of Representative candidate will receive his
 17 funding today. And we have five requests for funding
 18 that are currently pending, so things are starting to
 19 move along.
 20 Under Voter Education I wanted to point out
 21 that we now have Spanish data on our website. Both
 22 information about the Clean Elections Act and some data
 23 from the last election cycle is now available in Spanish
 24 on our site. We'll continue to expand the Spanish
 25 language content on our website so that everyone in

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1 Arizona can read our website.

2 Good news on the debate sponsors. In your
3 report it says we have seven districts that still need
4 sponsors. We now have tentative agreements for sponsors
5 in three of those districts in the community colleges.
6 And we have some promising leads on a couple of others
7 as well. So things should be fine -- things will be
8 fine, but hopefully sooner rather than later.

9 In the unlikely occurrence that we didn't get a
10 sponsor for a district, Commission staff would conduct
11 the debate. But we're recruiting for those remaining
12 districts.

13 Unless you have questions, that concludes my
14 report.

15 CHAIRPERSON BUSCHING: Is the vacancy on our
16 website?

17 MR. LANG: The campaign finance manager?

18 CHAIRPERSON BUSCHING: No, the Commission.
19 Well, both, I guess.

20 MR. LANG: The finance manager is not yet on
21 the website. Paula and I talked about that and we're
22 starting that process. And, you know, I don't know
23 whether the --

24 MS. MCGEE: Yes, Commissioner. I put it up
25 this morning.

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1 you look at the rules version -- of course you can look
2 at the legislative version too -- in the rules version
3 the changes -- the newer changes are in red. The
4 earlier changes are in blue.

5 And I'll point out a couple of things. First,
6 in Part 12(A), if you look at the red part towards the
7 bottom of the page where it says, "If a trip is for both
8 campaign and non-campaign purposes, comma, no less than
9 [sic] 50 percent" is what it reads. Obviously, "that"
10 should be changed to "than".

11 Similarly in the same section at the bottom of
12 (A), right before (B) begins, the last sentence reads,
13 "A short, brief incidental contact" and so forth. Short
14 should not be capitalized. In the legislative version,
15 the whole thing is capitalized so you wouldn't catch
16 that.

17 Those are sort of typo changes. The
18 substantive changes where it mentioned in 11(A) -- going
19 back to the beginning of 11(A), "Travel expenses for
20 any" -- and you see we took out the one -- "Travel
21 expenses of candidate's spouse and immediate family."
22 You see we struck the "when accompanying candidate."
23 That was done for policy reasons because a spouse of a
24 candidate can travel and that should be reported in the
25 same fashion.

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1 MR. LANG: There you go.

2 CHAIRPERSON BUSCHING: Great. Any other
3 questions of the executive director?

4 MR. LANG: Or Colleen McGee.

5 CHAIRPERSON BUSCHING: All right. Thank you.
6 We'll move to Item IV, discussion and
7 possible action on the following substantive policy
8 statements.

9 Mr. Lang.

10 MR. LANG: Thank you, Madame Chair. Once again
11 you have before you some proposed policies. What I did
12 was I removed all the alternative proposals because
13 really they weren't -- it seemed that the consensus was
14 if we're going to make changes, that the so-called
15 Version D was the one to go with.

16 So what I did is I took Version D and staff
17 updated it so that there's two versions of it. They are
18 identical in content and substance. The difference is
19 the formatting and style. We have our traditional
20 rule's version which is the kind we normally use when
21 we're making rules. And now we have a legislative
22 version -- or attempted legislative versions for the
23 Commissioners who find that easier to read.

24 What I'll do is I'll point out some changes
25 from our last meeting. There were a few updates. If

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1 That typo that you see where the "S" was
2 capitalized, that's also a substantive change under
3 12(A) at the end. That was just to specify and that
4 comports with FEC regulations, that an incidental
5 contact at a non-campaign stop shall not change the
6 nature of the stop.

7 For instance, if a statewide office holder and
8 doing an educational event in Page speaking about
9 something related to their office and someone says:
10 You're the candidate for me, I'm going to vote for you.
11 And wants to shake your hand or have a picture, some
12 sort of ad hoc occurrence, that doesn't change the
13 nature of that stop.

14 COMMISSIONER KUNASEK: To that point, there'd
15 have to be a complaint filed to determine if it was
16 incidental contact or perhaps a staged contact?

17 MR. LANG: That's right. If someone filed a
18 complaint against the candidate saying that they
19 violated the reporting requirements because this was, in
20 fact, a campaign stop and then the defense was this was
21 an incidental event at an official stop, the Commission
22 would then have to take testimony and find out, you
23 know, the nature of the stop. And this gives you the
24 discretion then to determine whether or not the
25 Commission feels it was incidental.

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1 Then down -- if you look at part 13(D) which is
 2 generally the use of airplanes and motor vehicles. D
 3 concerns the use of state aircraft, but I added language
 4 that covers the use of a state automobile, because,
 5 obviously, the candidate office holders may use state
 6 automobiles for official business and may end up doing
 7 something that is also a campaign stop, the split
 8 purpose that we spoke about.

9 And it parallels the airplane rule in part.
 10 Which says -- the new language is, "A Candidate using a
 11 state automobile for campaign purposes, shall reimburse
 12 the state at the state mileage reimbursement rate."
 13 That parallels the airplane portion of that. And then
 14 there's additional language, "Or daily rental rate for
 15 automobile travel applicable to the campaign." We found
 16 there is a daily rental rate on the Department of
 17 Administration's website. You can go there and it
 18 ranges from \$24 a day to \$28 a day for a large cargo
 19 van. So, the candidates have a choice there, they can
 20 use the mileage rate or they can use the daily rental
 21 rate.

22 And then in Part G, 13(G) at the end -- I think
 23 we talked about this last time -- again, specifying the
 24 banner towing is not part of this rule. "Such activity
 25 is subject to normal reporting requirements as set forth

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1 COMMISSIONER KUNASEK: Madame Chair?

2 CHAIRPERSON BUSCHING: Commissioner.

3 COMMISSIONER KUNASEK: With regard to giving
 4 the money to a pilot and expecting a pilot then to turn
 5 it over to the fund; by accepting the money, if the
 6 pilot is a private licensed pilot, the mere acceptance
 7 of the money will probably jeopardize his -- his flying
 8 ability -- not ability, but --

9 MR. LANG: His license.

10 COMMISSIONER KUNASEK: Potential license, yes.
 11 So, if he accepts the money and turns it over to the
 12 fund, that's as I understand what the desire of the
 13 Commission would be; however, you're placing him in
 14 jeopardy, I would think. And I'm not a pilot.

15 MR. LANG: Nor am I.

16 Madame Chair, Commissioner Kunasek, the
 17 way we've written the rule is, the intent is that the
 18 campaign pay the pilot what the pilot deems to be
 19 appropriate and then any extra money could go from the
 20 campaign to the fund. In other words, it wouldn't be
 21 remitted to the pilot and then he gives any extra to the
 22 fund, it would be rather if the pilot has a concern that
 23 two checks could be written.

24 COMMISSIONER KUNASEK: So, in other words, if
 25 the pilot says, if I were flying for hire -- which he

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1 by the applicable statute and rules." If it has
 2 expressed advocacy, you have to report it accordingly.

3 Those are the changes from last time. You
 4 still have Mr. Mays' comments from last time. And
 5 that's M-A-Y-S in case it's misspelled in any of your
 6 documents. And we also received a comment from a Mr.
 7 Arthur Rosen who I think is here today regarding his
 8 concerns. I think, again, those go to the compensation
 9 issues we discussed with Mr. Irvine. His concern in
 10 particular is if there's any passenger on board, the
 11 pilot can be reimbursed a split cost of fuel and oil.
 12 So those concerns are there.

13 I discussed these concerns again with Mr.
 14 Irvine who could not be here today, and he maintains his
 15 position that we're fine in regard to FAA rules. And
 16 that our provision if there's any extra compensation --
 17 if there's compensation given to the pilot or any money
 18 given to the pilot, where the pilot deems to be
 19 compensation which would jeopardizes their license, they
 20 can give the money to the fund. And Mr. Irvine agrees
 21 with me that that will cover it and not jeopardize the
 22 license.

23 That's where we are. I know we have a couple
 24 pilots here today who probably disagree and would like
 25 to talk to you, but that's where we are.

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1 can't -- this is the amount that I would have charged
 2 you? Or is the amount a commercial pilot -- a
 3 commercially licensed pilot would have charged.

4 MR. LANG: The appropriate amount for fuel,
 5 oil.

6 COMMISSIONER KUNASEK: I think the fuel and oil
 7 expenses are outside.

8 MR. LANG: Right. But depends on how he
 9 calculates it. We're trying to get the pilots in
 10 campaigns. We don't want to regulate how they calculate
 11 it vis-à-vis FAA rules. What we are trying to say is,
 12 here is what we think is a fair amount that needs to be
 13 reported for campaign purposes -- for campaign finance
 14 purposes. How you pay the pilot is between you and the
 15 pilot. If there's a difference in those two amounts,
 16 the extra amount should be remitted to the fund.

17 COMMISSIONER KUNASEK: So if he says we have so
 18 many gallons of fuel we used, so much time in the
 19 aircraft flying, so forth, and has that broken down and
 20 you pay him that much, then there should be no jeopardy
 21 to his private license.

22 MR. LANG: Again, I think some pilots would
 23 disagree, but that's the legal advice we're receiving by
 24 Mr. Irvine who is an experienced pilot, and that's my
 25 take on how I read the statute and regulations.

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1 COMMISSIONER KUNASEK: Okay. Thank you.
 2 CHAIRPERSON BUSCHING: Sure. Other questions
 3 of Mr. Lang?
 4 I have a couple of questions. Mr. Lang, back
 5 up in the addition to 12(A) where it says, "A short,
 6 brief incidental contact."
 7 MR. LANG: Uh-huh.
 8 CHAIRPERSON BUSCHING: Is there difference
 9 between short and brief?
 10 MR. LANG: No. We can strike one of those.
 11 CHAIRPERSON BUSCHING: Okay.
 12 MR. LANG: Which would you like to strike?
 13 CHAIRPERSON BUSCHING: I defer to you.
 14 MR. LANG: We will strike "short".
 15 COMMISSIONER KUNASEK: Either one, if I may
 16 add, is a lawyer's question.
 17 CHAIRPERSON BUSCHING: Sorry.
 18 COMMISSIONER KUNASEK: It still raises a
 19 possibility though.
 20 CHAIRPERSON BUSCHING: And you'll probably say
 21 the same thing with respect to my next question. Down
 22 in (H), we have -- the first sentence says, "A candidate
 23 or a person -- a candidate's agent or a person traveling
 24 on behalf of the candidate who uses a motor vehicle
 25 which is owned or leased by the candidate or another

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1 CHAIRPERSON BUSCHING: And my key question is,
 2 do you pay the candidate or the campaign -- or the
 3 candidate's campaign for it?
 4 MR. LANG: Actually, it would be the candidate
 5 because this is the use of their personal car. So,
 6 basically what they're saying is, if you use a car you
 7 have to pay for the campaign. So the campaign has to
 8 pay whoever owns the car whether it's the candidate or
 9 someone else. It's simply requiring an allocation of
 10 money for the use of the vehicle.
 11 CHAIRPERSON BUSCHING: I'm confused whether any
 12 monies -- in the first sentence, whether any monies --
 13 whether this sentence can be interpreted that monies has
 14 to flow but no monies flow through the campaign.
 15 MR. LANG: It comes from the campaign to the
 16 person who is loaning the use of the car.
 17 CHAIRPERSON BUSCHING: But it doesn't say that
 18 the campaign must reimburse.
 19 MR. LANG: I see your point. Yeah, we need
 20 to -- I think we need to fix that. That's the intent.
 21 So, we need to change the language so that it meets the
 22 intent.
 23 CHAIRPERSON BUSCHING: Yep.
 24 MR. LANG: This has been around for several
 25 years.

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1 person or organization, must reimburse the candidate,
 2 person, or organization respectively at the normal and
 3 usual rental charge of the transportation."
 4 It's a pretty compound sentence. But let's
 5 assume that Mr. Smith uses Candidate Jones' automobile,
 6 then this is saying to me that Mr. Smith must reimburse
 7 Mr. Jones -- or Candidate Jones for the normal use of
 8 the transportation.
 9 And I'm not sure that we want Candidate Jones
 10 reimbursed or his campaign committee to be reimbursed,
 11 you know, his campaign account to be reimbursed. And
 12 I'm not sure that's exactly what we intend there. It
 13 since --
 14 MR. LANG: This is --
 15 CHAIRPERSON BUSCHING: -- I know this is from
 16 before and I apologize for not having raised it before,
 17 but sometimes lawyers, the more they read, the more
 18 confused they get.
 19 MR. LANG: That's not my read of it, but I can
 20 certainly take a shot at re-crafting that particular
 21 sentence, if you will, if the Commission directs me to
 22 do so.
 23 My understanding is that this is basically
 24 treating it like a rental and paying whatever the rental
 25 rate is.

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1 CHAIRPERSON BUSCHING: Yeah. No, and I
 2 apologize that I didn't see it before.
 3 COMMISSIONER KUNASEK: On that and reading
 4 through the language again there, let's strike out some
 5 of it for clarity and clarifying: A candidate who uses
 6 a motor vehicle which is owned by the candidate must
 7 reimburse the candidate.
 8 MR. LANG: My suggestion, Commissioners, would
 9 be that we consider the other stuff and then I take a
 10 shot at fixing this for the March 30th meeting --
 11 CHAIRPERSON BUSCHING: Okay.
 12 MR. LANG: -- because this is separate from the
 13 airplane issues.
 14 CHAIRPERSON BUSCHING: Right.
 15 COMMISSIONER KUNASEK: Okay.
 16 CHAIRPERSON BUSCHING: And I think we want to
 17 make sure -- I mean, my key issue is distinguishing
 18 between candidate and campaign.
 19 COMMISSIONER KUNASEK: Campaign fund.
 20 MR. LANG: I agree. And this is not clear,
 21 so --
 22 CHAIRPERSON BUSCHING: Okay.
 23 MR. LANG: -- the way that it reads, now that
 24 you pointed it out, the candidate could be paying the
 25 candidate.

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1 COMMISSIONER KUNASEK: Yes.
 2 CHAIRPERSON BUSCHING: Exactly.
 3 Okay. Are there other questions or
 4 comments for Mr. Lang?
 5 If not, is there any member of the public that
 6 wishes to speak to this matter?
 7 MS. SMITH FLOREZ: That matter or the airplane?
 8 The whole --
 9 CHAIRPERSON BUSCHING: The whole agenda Item
 10 IV.
 11 MS. SMITH FLOREZ: Okay. I would, please.
 12 CHAIRPERSON BUSCHING: Please come forward and
 13 state your name.
 14 MS. SMITH FLOREZ: Thank you. My name is Jan
 15 Smith Florez and I'm a candidate for governor of the
 16 State of Arizona. And I have an interest -- at least I
 17 have a dream -- about an airplane, and I would like to
 18 find somebody with an airplane that will be willing to
 19 assist my campaign. I do have some questions, Madame
 20 Chairman, Members of the Commission, Mr. Lang and
 21 others, Secretary of State Jan Brewer, I appreciate this
 22 time and opportunity to speak with you.
 23 In looking at this, the thing that struck me
 24 about your proposals and the prior proposals and the
 25 rules in general, but this particularly, I could not

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1 understand a reason for the whole tempest. And the
 2 reason I can't -- and I had explained this, I think, to
 3 you at some earlier time -- I don't understand why one
 4 mode of transportation is different from another.
 5 As my understanding is that one of the purposes
 6 of Clean Elections is to enable people to participate
 7 who might otherwise not be able to participate in the
 8 elections. To level the ground as some people call it.
 9 Well, it seems to me that what this whole matter of a
 10 distinction in mode of transportation has done is
 11 creating a disparity where there should be really no
 12 difference.
 13 I don't understand why a plane is different
 14 from another mode of transportation. Are you going to
 15 make a different rule for a boat? If I decide I would
 16 like to spend a weekend on one of Arizona's gorgeous
 17 lake, a friend has a boat and I want to be able to use
 18 the boat to go and visit other people; do you have a
 19 rule on that? Or am I under the car rule? Or am under
 20 the I-got-to-rent-it rule? Or am I under the airplane
 21 rule? Or what rule am I under?
 22 You don't need to do that. I think the reason
 23 that the difficulty has come, and I see the different
 24 versions of this that I've been looking at, I think it's
 25 because you have made a distinction when there's no

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1 difference. It's a mode of transportation. Who cares?
 2 You shouldn't -- mileage is mileage. What you
 3 pay, of course if I rent a car, I have to pay that out
 4 of my campaign. If I rent a plane, take a charter, or
 5 take a commercial flight, I have to pay that out of my
 6 campaign. But if somebody wants to volunteer as a pilot
 7 who cannot receive compensation, why is that different?
 8 I understand needing to pay the share that the
 9 person has to pay who uses the plane, but nobody has
 10 been able to explain to me -- and, truthfully, I have
 11 not written the little request to ask you to do it to me
 12 in writing. But I just ask you to think about, why do
 13 we have this rule in the first place?
 14 I understand there may be some idea it's going
 15 to level the playing field among candidates such as
 16 myself and the Governor who has access to an airplane.
 17 But if she -- what's a hybrid trip? A hybrid trip is
 18 one that's business and personal. That has to be
 19 divided up whether it's in a car, I assume a boat, a
 20 plane, a horse. I mean, truly this is a distinction
 21 that doesn't need to be made. And nobody can explain to
 22 me why modes of transportation requires the distinction.
 23 I think mileage is fine. It works. Works on a
 24 car. I know how far it is.
 25 So I would encourage you to just look at it.

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1 Sometimes in trying to achieve one goal, we have
 2 unintended consequences. And I think in your efforts to
 3 achieve a fair system, the unintended consequence is
 4 that we have a rule that's pretty convoluted and pretty
 5 difficult to follow. And causes -- impinges on other
 6 people's right to participate, when all we want is as
 7 many people as possible to participate in the election
 8 process and in the political process.
 9 So, my recommendation -- and, frankly, I don't
 10 know where this falls, I don't know where it's going to
 11 favor myself, going to favor Governor Napolitano, I
 12 don't know. What I understand is the whole approach
 13 needs to be -- needs to make sense. And the beginning
 14 of making sense is for somebody to explain to the public
 15 why there's a distinction in modes of transportation.
 16 And I don't know why. It's to get you from one place to
 17 the other.
 18 So, my question to you would be to consider
 19 that. You know, sometimes when you're doing a project
 20 and it just won't work out and you just can't quite get
 21 there, it's because you started from the wrong basis.
 22 And, frankly, I would like to suggest that you think
 23 about whether or not this is even a necessary rule. And
 24 I don't have an answer to that. But it seems to me -- I
 25 can't come up with one, maybe you have one. But you

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1 create a distinction that is without a difference, that
2 ultimately creates a disparity simply because the
3 Commission wants to make a distinction.

4 So, I'll await your wisdom on this, but I would
5 ask you to be serious and look at it. Thank you.

6 CHAIRPERSON BUSCHING: Thank you. Ms. Varela,
7 Mr. Lang, would it be possible in line with her comments
8 to break -- or combine all of these paragraphs into not
9 distinguishing between airplanes and automobiles, and
10 merely then put in a different reimbursement rate for
11 the type of transportation?

12 Or does that not make sense? Is there any
13 sense, a lot of sense, a little sense to do something
14 like that?

15 MS. VARELA: I think without having had that
16 question posed to us before now, I really don't want to
17 speak to that. I mean, it's something I think we'd have
18 to look at.

19 MR. LANG: It's certainly possible.

20 MS. VARELA: Sure. But whether we would want
21 to do that, I think, is something I would not want to
22 answer right now.

23 CHAIRPERSON BUSCHING: Okay. Commissioner
24 Kunasek.

25 COMMISSIONER KUNASEK: Thank you. What's the

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1 sort of reimbursement was unfair because not every one
2 had access to pilots and planes. So, we heard that
3 point of view too. You know, so we heard from folks who
4 didn't really want to have all this accommodation and
5 heard from others that you're not even close to
6 accommodating pilots and allowing them to participate
7 enough in a fair fashion.

8 So this was an attempt to sort of address both
9 sides. Of course, when you do that, you can't make
10 either of them happy, but that's the attempt.

11 COMMISSIONER KUNASEK: While you are reviewing
12 it, if I may pose a question. What would the rational
13 or sanity, or the legality, or the satisfaction level
14 for all parties be if you would arrive at, it's very
15 simple, per-mile reimbursement rate? We don't care how
16 you spend it. If you want to take some guy's motor home
17 who gets five miles per gallon but you can haul the
18 whole campaign staff, or if you want to take some guy's
19 small but hybrid car that he can make money on the
20 reimbursement rate.

21 Does that -- does that make any sense to look
22 at it that way? Just have a simple per-mile
23 reimbursement allowed and whatever way the candidate
24 wants to use that is up to him.

25 CHAIRPERSON BUSCHING: Would you propose a

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1 geneses -- this was rule that was -- I inherited it.
2 How long has this reimbursement for travel been an issue
3 or did it come from day one?

4 MR. LANG: Commissioner Kunasek, it's actually
5 never really been much of an issue until this cycle. We
6 had this rule in place -- as you can see, the black text
7 in the rules version is the rule that's been in place
8 for more than one election cycle and it really was never
9 an issue.

10 The reason we've done all this, and I've been
11 debating back and forth with Mr. Mays and others, is
12 because of concerns raised by pilots about the rule as
13 it affects pilots. It's just never came up before. And
14 now the concern is that the old version of this, the
15 original version of this would not allow pilots to
16 volunteer because of the restrictions placed on them.

17 This -- all this writing you see and the back
18 and forth you've heard, is an attempt by staff to
19 accommodate the concerns of pilots in the sense of
20 allowing them to participate and also accommodating
21 concerns raised by several folks. And, again, this is
22 not a Partisan thing, we heard from Republicans on both
23 sides of this issue.

24 That just allowing pilots to volunteer their
25 services and provide their planes without requiring some

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1 different mileage rate for vehicles versus airplanes?

2 COMMISSIONER KUNASEK: I'd make it the same for
3 four wheels on the ground. If they want, you know, want
4 to -- if they have a pilot that wants to -- I guess you
5 can't fly for that rate even. But I'm just trying to
6 think of a way to address the dilemma that we have
7 apparently gotten ourselves into.

8 CHAIRPERSON BUSCHING: Or perhaps may get
9 ourselves into.

10 MR. ROSEN: Can I ask a question pertaining to
11 that or is that out of order?

12 CHAIRPERSON BUSCHING: We'll take more comments
13 in a moment.

14 Did you want to respond, Mr. Lang, or should we
15 continue to hear comments?

16 MR. LANG: Madame Chair, Commissioner Kunasek.
17 We could do something like that, but I think that is
18 fraught with its own set of challenges and difficulties
19 which is constantly keeping the difference in value
20 between a turbo prop and a Piper Cub. Getting into all
21 the different values of planes is something I don't
22 really want to do that, but I can do that if directed to
23 do so.

24 COMMISSIONER KUNASEK: Well, that's why I
25 thought just a simple per mile on the ground Phoenix,

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1 Tucson, whatever it is, 80 miles. That's all you get.
 2 If you want to fly it and get somebody to give you the
 3 plane and fly it for that price.
 4 MR. LANG: In a sense that's what this rule
 5 does. Because we have that 99 cent per nautical mile
 6 rate.
 7 COMMISSIONER KUNASEK: That's for planes.
 8 MR. LANG: And for cars it ranges from 10 cents
 9 to 40 cents. The state rate is 40 cents and we require
 10 they pay as much as that or little as 10 cents depending
 11 on how they value it.
 12 COMMISSIONER KUNASEK: If you plan it -- excuse
 13 me, if you try to level the playing field, the 40 cents
 14 would allow the candidate without access to an airplane
 15 and maybe a cost-efficient car to take that. And it
 16 would also allow the candidate that somebody wants to
 17 give an airplane to, that's all he's going to be
 18 reimbursed, if that much since the pilot is not going to
 19 be taking or able to take any reimbursement.
 20 MR. LANG: Oh, I see. You're suggesting one
 21 set rate.
 22 COMMISSIONER KUNASEK: One set rate, I don't
 23 care how you use it.
 24 MR. LANG: Whether it's a scooter --
 25 COMMISSIONER KUNASEK: Scooter, snowboard --

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1 MR. LANG: -- whatever?
 2 COMMISSIONER KUNASEK: Yep.
 3 CHAIRPERSON BUSCHING: No, I think he's saying
 4 one rate for vehicles and one rate for planes, aren't
 5 you?
 6 COMMISSIONER KUNASEK: Well, I really wasn't.
 7 I was saying one rate. I don't care how you use it. I
 8 don't know the merits of that or the wisdom of it, but
 9 it's another discussion point.
 10 CHAIRPERSON BUSCHING: Well, let's hear more
 11 comments from the public. I heard -- all right. Your
 12 hand went up first. Go ahead.
 13 MR. ROSEN: I'm sorry, are you looking at me?
 14 CHAIRPERSON BUSCHING: Yeah.
 15 MR. ROSEN: Okay. Good morning. My name is
 16 Arthur Rosen. I'm with the Aircraft Owners and Pilots
 17 Association and we represent 40,000 pilots here in the
 18 state and 407,000 pilots nationwide.
 19 I apologize to this body, I was not able to
 20 make the last meeting -- I believe it was, like, two
 21 weeks ago -- because I had another hearing down the
 22 street.
 23 I would like to go over the things, hopefully
 24 not talking down to you, things you've discussed. If
 25 you have, you can cut me off at any time. But you've

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1 got different issues here. And Senator, you've had good
 2 comments --
 3 COMMISSIONER KUNASEK: Commissioner.
 4 MR. ROSEN: That's all right. I've known you
 5 too long.
 6 The ideology of charging one rate for
 7 everybody --
 8 CHAIRPERSON BUSCHING: Just a minute.
 9 MR. ROSEN: Yes, ma'am.
 10 CHAIRPERSON BUSCHING: I want to note for the
 11 record that it appears that we've lost Commissioner
 12 Jolley.
 13 COMMISSIONER KUNASEK: You want to recess until
 14 she tries and calls back?
 15 MS. ORTIZ: We'll if she can come back in
 16 because she was calling from a very remote location.
 17 MR. LANG: Outside the states.
 18 CHAIRPERSON BUSCHING: I think they only let
 19 the phones go half an hour and cut them off or
 20 something. We've had that before. So, you know, don't
 21 get into fraud issues and things like that.
 22 COMMISSIONER KUNASEK: Well, we still have a
 23 quorum.
 24 COMMISSIONER SCARAMAZZO: Let's keep going.
 25 CHAIRPERSON BUSCHING: Okay.

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1 MR. ROSEN: Okay. So, we run into several
 2 different issues here and I've read a lot of red and
 3 I've read a lot of blue and a lot of black, and you
 4 people have me confused and I was a judge for 20 years.
 5 Okay?
 6 I'm asking this body -- there's two types of
 7 pilots, there's a private pilot that flies under Part 91
 8 and commercial pilot. Private pilot cannot accept any
 9 compensation except sharing the price of oil and gas for
 10 anybody that's in the plane with. And a light general
 11 aviation aircraft, that's usually is a pilot and two
 12 people in Arizona. A bigger aircraft can, of course, be
 13 more people. Commercial pilot can accept remuneration.
 14 COMMISSIONER KUNASEK: The pilot has to share
 15 in the cost of the gasoline if there's only one other
 16 passenger?
 17 MR. ROSEN: He can -- he or she can share if
 18 there is another passenger with that passenger. If the
 19 gas is \$50, he can accept \$25 from that passenger.
 20 COMMISSIONER KUNASEK: He has to buy his own
 21 gas?
 22 MR. ROSEN: This is a private pilot,
 23 noncommercial. If this pilot is alone, he can't accept
 24 a dime. If he is with two other people, he can accept
 25 33 cents on the dollar.

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1 COMMISSIONER KUNASEK: Thank you.
 2 MR. ROSEN: All right?
 3 We've got a problem here in your
 4 language. I can't understand what you're trying to say
 5 to me. If I owned my own airplane and I'm a candidate
 6 and running for statewide office, what are you trying to
 7 say to me? What is this body trying to say to me? And
 8 I can't understand that.
 9 Then, secondly, if I'm flying with a campaign
 10 manager and I'm a private pilot -- an example of a
 11 campaign manager -- then I can accept 50 percent
 12 remuneration for just fuel and oil, all right? Again, a
 13 private pilot. Now, if I'm a commercial pilot, I can
 14 accept whatever you set up as a guideline.
 15 Going back to your statement earlier, which I
 16 wanted to address, you can't -- you can't set a --
 17 airplanes are regulated by federal regulations;
 18 automobiles, buses are not regulated by federal
 19 regulations. So, if you -- this body decides, so, okay,
 20 we're going to pay everybody 60 cents a mile, you can't
 21 do it. Because what happens is that pilot is subjected
 22 to: One, losing his license; two, a federal fine; and
 23 three, to federal imprisonment because of this body's
 24 actions.
 25 It's not clear what you're trying to do out

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1 there. And I do understand you're trying to make a
 2 level field. But in my mind the most important thing
 3 for a candidate is to get out and meet the populus and
 4 this is just another mode of transportation. I'm not
 5 quite as eloquent a speaker as the person that's
 6 proceeded me, but that's basically what it is, is to
 7 meet the population.
 8 It is a level playing field that everybody has
 9 a chance to charter an airplane if they want to get
 10 somewhere faster, because then they're going to be
 11 reimbursed on whatever you set up as a charter rate.
 12 So, that I don't think even comes to play because it's
 13 equivalent to renting a car.
 14 As far as my understanding, nothing that this
 15 body does can supercede state law which then cannot
 16 supercede federal law. And what you're doing here is
 17 both, because there is no state law concerning this and
 18 federal law has totally prohibitive of any kind of
 19 flying for remuneration for a private pilot,
 20 noncommercial.
 21 The last thing that's very important here is
 22 that there are candidates -- we're the third largest
 23 state in aviation in the United States. We've got
 24 Florida, California, and Arizona. To give you an idea,
 25 Deer Valley Airport does more operations than John

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1 Kennedy in New York.
 2 Candidates are out there campaigning now and
 3 they don't have use of their airplanes because they're
 4 in a toss up. They don't know what to do. And so, I'm
 5 here to ask this body for their assistance in
 6 simplifying what's out there because I can't make heads
 7 or tails of it. And two is to try to move forward so
 8 candidates who do have these abilities can go ahead and
 9 campaign without creating any conflict with the
 10 Commission and your regulations.
 11 I'll be glad to answer any questions if anybody
 12 has any.
 13 CHAIRPERSON BUSCHING: Thank you, Mr. Rosen.
 14 Any questions? Thank you.
 15 MR. ROSEN: Thank you.
 16 CHAIRPERSON BUSCHING: Is there -- Ms. Lubin.
 17 MS. LUBIN: Barbara Lubin with the Clean
 18 Elections Institute who has been dealing with these
 19 reimbursement rates for seven years now and I want to
 20 give some historical background, if I may.
 21 I was a candidate for Corporation Commission in
 22 2000. And I started running in September of 1999 when
 23 this body back then was promulgating the rules. And the
 24 first thing that was coming was automobiles. And David
 25 Eagle who was a lawyer who was following how things were

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1 going thought that the reimbursement rate should
 2 absolutely be 34 cents per mile. And I sent my husband
 3 down here because I had some campaign activity. He
 4 pointed out -- and this is why we have now between the
 5 10 and 40 cents is because the down ballot statewide
 6 races where you only were getting about a hundred
 7 thousand dollars. If you were required to be reimbursed
 8 at 34 cents a mile, you're going to eat up so much of
 9 that limited -- and actually for the primary, you're
 10 only getting \$40,000 -- you're not going to have any
 11 money to send out fliers and whatnot.
 12 And then David Eagle said but what about
 13 candidates who -- at that point 10 cents per mile was
 14 enough to cover gas --- what if people can't afford
 15 that, they really need to charge the wear and tear on
 16 their car. And that's when the Commission said, okay,
 17 let's come up with a range.
 18 I don't think there was a policy regarding
 19 airplane travel at that time, but I could be wrong. The
 20 2000 race that came up, I know for sure there was this
 21 rule adopted that was so expensive that it essentially
 22 prohibited use of airplanes for the 2002 race, the last
 23 time we had all the statewide races on. And the 2004
 24 race, there really wasn't too much airplane travel
 25 because we only had two corporation commissioners each

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1 since the statewide.

2 Now, in 2006 we have a sitting governor that
3 Department of Public Safety that's in charge of the
4 security detail has got concerns how she's transported.
5 And so her campaign needs clarification. We have a
6 candidate for Secretary of State who, I understand, owns
7 three planes and wants to use them and so he wants a
8 rule. His -- the -- another candidate for Secretary of
9 State does not own planes and does not have a close
10 friend that's willing to fly her around, so she wants to
11 make sure that there is an even playing field and her
12 opponent does not have an unfair advantage. And I'm
13 sure that there are a lot of other statewide candidates
14 that are as Ms. Smith Florez said, she's looking for
15 someone to fly her around if possible.

16 It's now March the 15th. The primary election
17 is less than six months away. I know that this is all
18 complex and you want to do what's right, but I also
19 remind you and urge you to come up with some policy even
20 now if you need to revisit it in a month. Because the
21 campaigns are underway, people are trying to figure out
22 what to do. These gentleman said some people aren't
23 flying because they're afraid of what they're going to
24 do.

25 It's tough to figure out what is -- what is

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1 fair but what keeps an even playing field. And I -- I
2 just hope that you come up with some policy because
3 these campaigns are out there, they're having to travel,
4 they're trying to figure out what to do. Some
5 candidates back here are saying: I think I'll just walk
6 everywhere in the state, you know, it's getting down to
7 that. And it's been my experience over the years that
8 certainly that people, the vast majority of people that
9 are running under the Clean Elections law, they want to
10 make sure they comply with the law and bend over
11 backwards to be in compliance.

12 So, I guess what I'm saying is please give them
13 some direction and give them some direction today and
14 tweak it perhaps in a month. And I know there's been
15 criticism with the Commission in the past because they
16 change the rules midstream. But if there's some
17 tweaking that needs to be done, perhaps that can be done
18 later. But these campaigns are out there going fast and
19 furious, and they really need some -- need some
20 direction. And right now that old policy of
21 reimbursement on airplanes is just ridiculous it's so
22 high. So, you can't leave that thing in place because
23 it's just really unreasonable.

24 I wanted to give you about six-and-a-half years
25 of perspective on traveling in this very huge state.

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1 And you realize the state of Rhode Island, we only have
2 one county that is smaller than the entire state of
3 Rhode Island, and I think that's Santa Cruz County. So,
4 folks in other states have no idea what we deal with in
5 these wide open places.

6 So, anyway, thank you. If you have any
7 questions, I'll be happy to answer them.

8 CHAIRPERSON BUSCHING: Ms. Lubin, do you have a
9 recommendation as to what we adopt?

10 MS. LUBIN: Regarding airline travel, I think
11 that the 50 percent rule is appropriate if it's a mixed
12 trip. And I have never flown in a small plane, so I'm
13 not sure what the costs are. I really believe that
14 there should -- I realize that private pilots cannot
15 receive compensation, but to just let that be a free
16 pass for not some sort of reimbursement, I do have
17 concerns about. And I think that it would be very
18 difficult for you to have a different reimbursement rate
19 for different types of planes. So, I think having a
20 flat rate for mileage for airplane travel is probably
21 very practical.

22 CHAIRPERSON BUSCHING: Okay.

23 MS. LUBIN: I don't know if that really
24 answered it, but --

25 CHAIRPERSON BUSCHING: Are there other

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1 questions for Ms. Lubin?

2 COMMISSIONER KUNASEK: So you like the flat
3 rate, but two levels: One for flying, one for
4 automobile?

5 MS. LUBIN: I don't mind a variable rate for
6 automobile, but -- a flat rate for automobile,
7 definitely. I think it's a real problem if you would
8 have a flat rate no matter if someone is going on ground
9 or the air, yes.

10 COMMISSIONER KUNASEK: So, then for the flying
11 rate it would be determined by flight miles or ground
12 miles? Because there's a difference.

13 MS. LUBIN: There is. Nautical miles are
14 different.

15 COMMISSIONER KUNASEK: Nautical miles or ground
16 miles?

17 MS. LUBIN: If the instruments on the plane
18 that they're able to clock the mileage and that's what
19 they have to report to the FAA, if that's in nautical
20 miles, then I would say to go with nautical.

21 COMMISSIONER KUNASEK: Don't the charts show
22 the approximate nautical miles between point A and point
23 B?

24 MS. LUBIN: Sorry, sir, I just have no --

25 COMMISSIONER KUNASEK: They do. I just got the

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1 signal they do.
 2 MS. LUBIN: Okay. Good.
 3 But, yeah -- no, I think you really have
 4 to -- have to look at being on the ground in a Prius or
 5 Navigator differently -- or the same rate if you got
 6 four wheels on the ground or if it's an RV, that's okay
 7 too, a big RV -- versus being in the air. Thank you.
 8 CHAIRPERSON BUSCHING: Other questions?
 9 COMMISSIONER KUNASEK: I do have another
 10 question of the pilot and this is a rather technical --
 11 it's not technical. Let me give you a hypothetical --
 12 and for the Commission.
 13 CHAIRPERSON BUSCHING: For Mr. Rosen?
 14 COMMISSIONER KUNASEK: Whoever.
 15 For example, I have a son who has many
 16 hours logged as a commercial pilot and he wants to come
 17 home and help dad on a statewide race. So, dad's
 18 campaign charters an airplane and now we're going to pay
 19 the charter price and we're going to pay him his
 20 commercial pilot's rate. What do we do then?
 21 MR. ROSEN: That's legal.
 22 COMMISSIONER KUNASEK: That's legal.
 23 MR. ROSEN: That's legal. What you've got to
 24 do is most of the charter rates though of airplanes
 25 here, let's say, you have corporate jets up in

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1 Scottsdale they quote you a rate that's with two pilots.
 2 COMMISSIONER KUNASEK: I see. Okay.
 3 MR. ROSEN: So, again, it's a difficult
 4 situation.
 5 The private pilots that I've talked to, said
 6 they don't want any reimbursement. I'm talking about
 7 the ones that have their own airplanes. They just want
 8 the ability to fly from point A to point B, without
 9 causing any conflicts and problems, and to get out and
 10 campaign.
 11 COMMISSIONER KUNASEK: Okay.
 12 MR. ROSEN: But your situation is you have to
 13 back out the pilots out of a corporate charter rates,
 14 let's say corporate jets, and figure out what the
 15 pilot's compensation per hour would be.
 16 CHAIRPERSON BUSCHING: Okay.
 17 COMMISSIONER KUNASEK: Thank you.
 18 CHAIRPERSON BUSCHING: I think we have other
 19 people that haven't had an opportunity to speak.
 20 Ms. Brewer.
 21 MS. BREWER: Good morning. I'm Jan Brewer,
 22 Secretary of State candidate for re-election. Good
 23 morning, Chairman and Members of the Commissioner.
 24 Take a deep breath.
 25 This whole situation, I don't even know, in my

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1 opinion, if there is a real solution to it. It's become
 2 a real red herring. Everything in here is conflicted
 3 with everything. I want to go back to base one as a
 4 candidate.
 5 Clean Elections was established so that we
 6 would have a fair playing field, everybody working on
 7 one set of rules. Well, unfortunately, in today's age
 8 we have candidates that have access or are independently
 9 wealthy. That allows people that have big toys for big
 10 boys to do different things than poor girls with no
 11 toys.
 12 Now, my concern is that those that can have
 13 their plane and reimburse themselves 99 cents a mile and
 14 be able to travel all over this state, they are not
 15 paying a fair and just fee when someone has got to get
 16 in their little automobile and take up time. I mean,
 17 somebody that gets in a plane and flies from here to
 18 Flagstaff, they can be up and back within, you know,
 19 three hours. As somebody in a car, it's going to take
 20 them a lot longer to get up there and get back.
 21 Flying a charter plane or flying your personal
 22 plane is a very expensive mode of traveling, in my
 23 opinion, not being -- belonging to the jet set. Those
 24 people will be able to travel the whole entire state --
 25 because I've done it -- in airplanes and be back home,

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1 you know, for mid-afternoon snack. Those of us that are
 2 driving by car, are not going to come home maybe until
 3 the next day. So they're going to be able to do a lot
 4 more campaign-wise than those of us that are forced or
 5 choose, I guess, to be able to travel by car.
 6 They have to maintain that plane, somebody
 7 does, whether it be a volunteer or private owner of a
 8 plane, they have to maintain that plane. They have to
 9 go into an airport and they have to tie it down and they
 10 have to pay parking charges and none of that is
 11 reflected in this.
 12 Now, for the gubernatorial race, they have a
 13 lot of money, in my opinion. For any race underneath
 14 that, a hundred thousand dollars is not a whole lot to
 15 be able to run a campaign on. Now, if they don't have
 16 to pay for this extravagant way of campaigning in an
 17 airplane, then they're getting a double-dip. I mean,
 18 they're being able to access the people that they want
 19 to contact at a much quicker and cheaper level than I am
 20 in my car. It just doesn't seem fair to me.
 21 And I know that there's a lot of issues that
 22 have been brought to this table. But first and
 23 foremost, I think the public would demand that this
 24 board set a fair and level playing field. And the
 25 complications are, it's because we have now this Clean

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1 Elections Commission and rules that have been
2 established. Before we had people that were in a
3 position of elected incumbents and different rules
4 setting the pace for different people.

5 And I could bring up a lot of different
6 subjects today that would really probably cause more
7 confusion in all of this, and I don't want to cause
8 confusion. But I as a Clean Elections candidate, and as
9 an incumbent want to be treated fairly. And I want
10 everybody else that's using Clean Elections to be
11 treated fairly. And I want those people that are
12 running traditional campaigns to be treated fairly.

13 So what I believe has been proposed here today
14 really favors certain people dramatically.

15 Dramatically. And I don't know how you're going to
16 solve it, but I am not happy, I don't believe, with this
17 if I can understand the way it's being presented today.

18 I want to go back to your Version F, the rules
19 version, which unfortunately today was the first day I
20 was able to really look at this. Paragraph 11 there on
21 line whatever, it talks about the volunteers traveling
22 with the candidate may choose to pay their own traveling
23 expenses -- if you go down -- and the travel expenses of
24 candidate's spouse and immediate family.

25 Now, all of a sudden we're punishing you

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1 because you got a husband, or got a child, or got a
2 cousin -- they can't volunteer anymore. Now they have
3 to pay all this kind of stuff. I don't understand where
4 this came. This just seems outrageous to me.

5 If there's a volunteer that, you know, Joe Blow
6 over here and Brewer, they can do whatever they want to.
7 But, you know, the cousin over here in what other
8 precinct, they can't do -- they have to pay. That to me
9 sounds absolutely unfair. Unfair.

10 There's so many hairy arms in this and so many
11 exclusions and inclusions that it's going to complicate
12 it so much, that everybody is not going to know what
13 they need to report and what they can't report.

14 I don't have a problem with mileage rate in a
15 car. You know, if someone wants to pay themselves 40
16 cents a mile, good for them. If they got the money,
17 good for them. If somebody wants to pay 10 cents a
18 mile, I mean, that's nickels and dimes.

19 But when you start getting into airplane travel
20 and then paying 99 cents, to me I think that's totally
21 off base. We all know airplanes cost more than that to
22 operate. We all know that people don't have access to
23 airplanes on a general standard.

24 I know you have to deal with the Governor and
25 the airplane -- which brings up some other issues over

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1 there that will be probably surface later on, I don't
2 know. But the bottom line is that you guys, in my
3 opinion, have a responsibility to make it a level field
4 and not to give the jet set an advantage over those of
5 us that have to play with a hundred thousand dollars.
6 It just -- it just -- it's not fair. And I hope that
7 you come to a solution and I wish you would address this
8 issue.

9 And I don't know why it was done this way on
10 that 11. That if you are a volunteer you get to go for
11 a free ride and do whatever they want to, contribute
12 whatever they want to. And then you have a cousin, or
13 son, or husband, or aunt or uncle then the candidates is
14 punished. To me that is just not fair at all. That's
15 not a level playing field.

16 Who are the candidate's best volunteers?
17 Usually it's the people that are the closest to them.

18 CHAIRPERSON BUSCHING: Thank you.

19 MS. BREWER: Thank you.

20 CHAIRPERSON BUSCHING: Are there any questions
21 of Ms. Brewer?

22 I think that we -- as speaking, I'm sure, on
23 behalf of all the Commissioners -- we want to be fair
24 and we want to try and do the best job we possibly can
25 for all the candidates to make sure that the public

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1 feels the system is fair. And, obviously, there's a lot
2 of different parties here with a lot of different
3 interests, and, you know, everybody has their own
4 perspective on what's fair and we're trying to sort all
5 of that out.

6 Is there anyone else that hasn't spoken that
7 wishes to speak? Sir, if you would come forward and
8 state your name.

9 MR. MAYS: My name is Richard Mays. I'm from
10 Fountain Hills and I'm a pilot. I'm going to sit, my
11 back is killing me. Sorry about that.

12 Everybody here today has made some really good
13 comments. They just haven't found, including -- I'm
14 sorry -- Mr. Lang, who I have worked with. And let me
15 take a moment, I'm not a fan of Clean Elections and I
16 think everybody basically knows that. I try to comply
17 within every rule, but if I was supporting a campaign,
18 it probably would not be a Clean Elections' candidate if
19 I had a choice. But Mr. Lang and I have had numerous
20 conversations. I really want to thank him for the
21 participation that he's had allowing me to participate
22 for the past couple of weeks.

23 He and I completely disagree. And I think
24 there's an easy way to focus this. What is the rational
25 basis for private, noncommercial transportation to be

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1 compensated or reimbursed? Where is the rationality in
2 it?

3 You have limited funds for Clean Election
4 candidates. You have two different standards for
5 reimbursement for travel. For an airplane, we're going
6 to use the state reimbursement rate. For a car, we're
7 going to use the state reimbursement rate or less
8 because maybe it's less to operate a car and maybe it's
9 more efficient.

10 What's the reason for noncommercial
11 transportation to have to be reimbursed? And I want to
12 take you to page 47 of the campaign guide that you guys
13 pass out. And I'm sorry if you don't have it. I did
14 see a couple over here or I can pass this to someone,
15 but I'll read it. Here's another difference between
16 your airplane policy which requires all volunteers -- if
17 I'm traveling by myself in a campaign and I go to
18 Flagstaff to help collect \$5 contributions, I have to be
19 reimbursed for that flight. No passengers.

20 But I want to read you what the travel rules
21 under your guide to all the candidates says: "While a
22 candidate is required to use campaign funds to pay for
23 travel expenses, campaign staff and volunteers may
24 choose to pay their own travel expenses and not be
25 reimbursed. If a staff member or volunteer chooses to

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1 you could not visit every airport in the state. Could
2 not be done. There's 82 public-use airports, and if you
3 were running for mine inspector and you were using an
4 airplane at 99 and a half cents, you cannot visit the
5 entire state.

6 So, now I want to take to your original
7 proposition for Clean Elections. And one of the things
8 that it says is, "That the people of Arizona find that
9 our current election finance system, the traditional
10 campaign, hinders communication to voters by many
11 qualified candidates."

12 How does requiring private, noncommercial
13 transportation do anything but hinder when they have
14 limited funds? The only candidates that you're going to
15 help by instituting a reimbursement policy for travel is
16 a guy who has unlimited funds. The guy who can go out
17 there and fly his -- sorry -- three airplanes, who's
18 going to pay the 99 cents.

19 Mr. Rosen, I'm sorry, I understand where you're
20 coming from and I fought this Commission for three
21 months and I disagree. The Commission staff has done
22 absolutely everything they can -- if they do it
23 properly, to avoid any FAA issue. This is not about the
24 FAA. If the campaign pays the money directly to the
25 Clean Elections' system -- the Clean Elections' fund,

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1 pay for his or her own travel expenses, it will not be
2 considered a contribution to the candidate. Campaign,
3 however, is not precluded for paying for staff members'
4 travel expenses that are directly campaign related."

5 So if I drive my car -- or this says travel --
6 but how this rule has been applied so far is if I as a
7 volunteer want to drive my car, I don't have to be
8 reimbursed. Your rules -- the old rules, what is now
9 Paragraph H in the current document -- was not changed.
10 And yet this is what the campaigns are being told and
11 this is what they're abiding by.

12 The rules actually say, "Must be reimbursed at
13 least 10 cents a mile." Doesn't say anything about 40
14 cents a mile. Let me tell you where these two figures
15 come from. And while I understand the Secretary of
16 State's concern, if we're going to reimburse airplane
17 travel at the state employee reimbursement rate, then
18 why aren't we requiring private, noncommercial travel at
19 40 cents?

20 The answer is because everyone here that is
21 under Clean Elections has limited funds. If you take
22 one of those down candidates -- down ballot candidates
23 who I believe for their initial paperwork isn't it like
24 47 -- maybe \$17,000. Under the reimbursement rate for
25 airplanes at 99 and a half cents, I figured it out and

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1 then the pilot is not involved. And I spoke with Monroe
2 Balton who wrote the FAA letter and he said that is
3 absolutely correct.

4 Since I'm the pilot and I'm not even involved
5 in that, even though I feel it's a flight for hire, FAA
6 is not involved. But Mr. Rosen's feelings on this issue
7 is what this entire documents creates. Every single
8 pilot that I speak to -- I've gotten on message boards
9 on the Internet -- they all think this is compensation.

10 And even though the money has to come back --
11 and you brought up a good point, you can't pay the pilot
12 and pilot say: No, no, no, I can't take that much, you
13 have to give this much back. The pilot has to pay for
14 his own flight.

15 But let's go back. Why is it rational to have
16 two different standards for private, noncommercial
17 transportation? And under limited funding, why it is
18 rational that it be reimbursed at all? If you're going
19 to require reimbursement, okay, let's go to the state
20 rate. How many campaigns will you bankrupt requiring
21 them to have 40 cents a mile? That's why the Clean
22 Election Institute individual said she came here and
23 fought that and said let's get a reduced rate.

24 Wait a minute, why aren't we reducing the rate
25 then for a private pilot? Secretary Brewer is

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1 incorrect. It's not more expensive to travel. FAA
2 regulations require that for a travel I can only
3 consider fuel, oil.

4 Yeah, it's expensive to keep an airplane. It's
5 expensive to get a law degree and run as a candidate.
6 It's expensive to have a web presence that is
7 volunteered or donated. Every other service that I can
8 think of has value but is allowed to be donated free of
9 charge.

10 I'm talking private, noncommercial
11 transportation. If a volunteer can do it in a car, why
12 can't a volunteer do it in an airplane? It is the same
13 exact thing. It is private travel.

14 CHAIRPERSON BUSCHING: Mr. Mays, would you wrap
15 it up, please.

16 MR. MAYS: I will. I want to speak to one
17 other point and I really haven't spoken to it before.
18 But since we're going over this entire policy --
19 actually, I have two things, I'm sorry.

20 The law. The law in this is Arizona Revised
21 Statute, Title 16, Chapter 6, Article 1, Section 16-901.
22 Under Definitions it says that, "A contribution means
23 any gift," et cetera -- subscription, loan -- "does not
24 include the value of services provided without
25 compensation by any individual who volunteers on behalf

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1 statement is advisory only."

2 These rules, these -- this substantive policy
3 is making a rule. It doesn't seem to me that it's the
4 right place for it or the right purpose.

5 I had last time before last meeting submitted a
6 proposal to the Commission on a way to resolve private
7 travel. But at the last meeting Chair Busching focused
8 this, she said, wait a minute, you go to the IRS and
9 they require reimbursement rate for a car. It's like 41
10 or 43 cents I think she said in the minutes.

11 And that made me focus on, wait a minute,
12 that's the problem you have. One rate for cars, one
13 rate for airplanes. I can take a 40-passenger privately
14 owned vehicle under your rules, load it up with
15 volunteers and drive it for free, as long as the
16 candidate is not on board, from here to Yuma and put on
17 a great big rally. My airplane can only carry two to
18 three people. There's an advantage to some people.
19 Private, noncommercial transportation.

20 The last thing. The state reimbursement for
21 the state airplane. I really haven't focused on it
22 before. The airplane is a Beechcraft E90, seats 10
23 people, two of which are commercial pilots. And yet
24 this rule makes the use of that airplane the same as
25 private travel in a private airplane. And then it says,

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1 of a candidate, a candidate campaign committee, or any
2 other political committee." That is (B)(I).

3 And (B)(IV) is, "Any un-reimbursed payment for
4 personal travel expenses made by an individual who on
5 his own behalf volunteers his personal services to a
6 candidate."

7 It's not a campaign gift and yet we're trying
8 to make it an in-kind contribution. The law says it's
9 not a contribution. If I'm traveling by myself, this
10 Commission should really have no effect. And I just
11 don't understand why it's rational to have reimbursement
12 for private travel. It gives you all an easy solution.

13 I also want to read Arizona Revised Statute,
14 ARS 41-1001(20), which states that what we're dealing
15 with here is a substantive policy statement. And what
16 is that? Can you impose a rule with a substantive
17 policy statement? It says it means, "A written
18 expression which informs the general public of the
19 agency's current approach to or opinion of the
20 requirements of the federal or state constitution,
21 federal or state statute, administrative rule or
22 regulation, final judgment of a court of competent
23 jurisdiction including where appropriate the agency's
24 current practice, procedure, or method of action based
25 on the approach or opinion. Substantive policy

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1 "A commercial or a charter airplane must be paid in full
2 by the campaign."

3 Now, I understand there's security issues with
4 the governor or state elected officers and there are
5 reason for them to travel on a state aircraft. But to
6 be fair -- since we're wanting to level the playing
7 field -- this policy does a few things that really
8 concerns me. The governor can fly the state aircraft,
9 pay 50 percent of the actual cost of that trip if she
10 performs business.

11 Let me point out, at no time in a private
12 airplane if I'm with a candidate, can that candidate
13 take half the price off because I'm a private pilot and
14 we have to have a common purpose in that flight. And
15 that common purpose is I want to help her to get elected
16 or him to get elected. It is not, oh, I got to go do
17 this, I'll stay at the airport and wait for you while
18 you go do that campaigning. That can't happen. Limited
19 use in private airplane. We are only allowed certain --
20 so 50 percent would never apply to a private plane
21 travel, unless the pilot was doing business then it
22 might.

23 CHAIRPERSON BUSCHING: Would you wrap it up?

24 MR. MAYS: I am.

25 So, 50 percent if any other business.

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1 Well, we know a state officer is going to have other
2 business. Then it's a 10-passenger airplane. We can
3 put, let's say, four other Democrats on the airplane,
4 and split the cost according to these rules four ways.
5 So now we take 99 and a half cents, divide it by four,
6 and that's the transportation cost that the governor
7 could pay -- actually divide it in half again -- for
8 using an aircraft that I went online and looked and to
9 charter that airplane from Scottsdale Airport to
10 Wickenburg Airport is \$895.

11 Let's make it fair. Noncommercial
12 transportation should not require reimbursement. It's
13 all the same.

14 CHAIRPERSON BUSCHING: Thank you.

15 MR. MAYS: Commercial transportation should be
16 required to be reimbursed at the commercial rate that's
17 normally charged. And the state aircraft when a
18 campaign is campaigning on a state aircraft, that price
19 should not be able to be split and should not be cut in
20 half as Mr. March [sic] had recommended. Because any
21 time that you're campaigning during the -- in an
22 election cycle you can separate if it's all campaigning
23 or it's all business.

24 CHAIRPERSON BUSCHING: Mr. Mays --

25 MR. MAYS: I'm done.

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1 COMMISSIONER SCARAMAZZO: Thank you.

2 CHAIRPERSON BUSCHING: Any questions of Mr.
3 Mays?

4 I would turn back to Mr. Lang and ask if you
5 have any -- oh, is there anyone else that has not spoken
6 that wishes to speak?

7 Okay. Let's turn back to Mr. Lang and ask you,
8 based upon what you've heard if you have any suggestions
9 or recommendations for the Commissioners.

10 MR. LANG: Thank you, Madame Chair,
11 Commissioners. I think I've got it all worked out. I
12 think I can fix it and make everyone happy.
13 Unfortunately, I'm kidding.

14 COMMISSIONER SCARAMAZZO: It's like Santa
15 Clause.

16 MR. LANG: You can see by just the testimony
17 you've heard today that there are some disagreements.
18 Some say the 99 cent rate is ridiculously low, others
19 say it's ridiculously high. So, the bottom line is,
20 sorry, Commissioners, you're not going to please
21 everyone on the policy.

22 I do disagree with on Mr. Mays on one key point
23 which is I believe this is a very legitimate use of the
24 substantive policy statement procedure. The Commission
25 is providing instruction to candidates and volunteers on

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1 how our rules regarding contributions, expenditures and
2 that sort of thing, how they will be interpreted by the
3 Commission. So that's the only point I really want to
4 disagree with him on.

5 I had distributed the e-mail by Mr. Irvine
6 because I hoped he would be here today, but
7 unfortunately he was not able to be here. You really
8 don't need to read it now unless you have particular
9 interest. The point he makes in this letter is that the
10 rules are fine under FAA reg's. You heard Mr. Mays also
11 agree that that's not the issue any longer, for him at
12 least. If you still have some concerns about that, I
13 would urge you to look at Mr. Irvine's comments.

14 I think Secretary of State Brewer raises an
15 important issue regarding volunteers. That wasn't the
16 intent of 11. So, I would like to take a look at that
17 and fix that down the road, but I'd like to do that
18 separately.

19 CHAIRPERSON BUSCHING: Would you suggest
20 immediate family be included or be excluded?

21 MR. LANG: The purpose of the clause regarding
22 immediate family is, if the candidate or candidate's
23 spouse, for instance, is flying, well then that's a
24 campaign expenditure and should be compensated under the
25 rules appropriately. It's not intended to take away the

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1 exemption for volunteers nor is it intended to add cost
2 for a flight.

3 For instance, if Secretary of State Brewer is
4 flying, should she then have to pay additional expenses
5 if her son comes with her or something like that? But I
6 agree with actually both Secretary Brewer and Mr. Mays
7 made the point that volunteers who are acting on their
8 own behalf, trying to support their candidate of their
9 choice, not working for the campaign, those folks are
10 intended to be separate and not -- and they can be
11 un-reimbursed appropriately.

12 CHAIRPERSON BUSCHING: And does that include
13 the immediate family?

14 MR. LANG: No. And the reasoning there --
15 staff's reasoning on that is that you have a spouse who
16 is a visible person, who is not simply a volunteer but a
17 visible person like a candidate, and so the spouse
18 should be treated like a candidate. If the spouse goes
19 to Wickenburg, that should -- they should have to pay
20 for the trip because that's clear campaign expenditure.

21 But there were valid points raised here today.
22 If you want to treat the campaign -- the candidate's
23 family like any other volunteer, that's, of course, at
24 the Commission's discretion. That's just not what we
25 recommended, but that's no trouble for staff to fix

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1 that.

2 We could do a lot of things. We could put in a
3 range to address Mr. Mays' concerns, although I think it
4 would exacerbate Secretary Brewer's concern, because we
5 could just allow -- we could just say a volunteer's use
6 of planes is like a volunteer Webmaster and volunteer
7 anything else. We could do that and completely exempt
8 that.

9 The purpose -- the thought here is taken from
10 some of what Secretary Brewer said, the plane is not
11 your typical contribution. It is quite valuable and
12 enables you to fly around quickly. So that's why we
13 felt that these needed to be addressed. So these issues
14 need to be addressed, not just like everything else
15 because they are so valuable.

16 But ultimately, the pilot's time really isn't
17 compensated, we're not requiring the pilot's time be
18 compensated, but rather the use of the plane because the
19 plane is a thing of value.

20 So we intended to not require the pilot himself
21 to be paid. For all reasons both Mr. Rosen and Mr. Mays
22 raised, but also because they are volunteers. It's the
23 plane, the use of the plane that we think has value that
24 the Commission needs to address or should address. But,
25 ultimately, whatever the Commission instructs us to do,

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1 discussion and if someone wants to ask members of the
2 audience questions or whatever, that's fine.

3 COMMISSIONER KUNASEK: I have a point that I
4 would like -- question I would like to ask, just for my
5 own, because I just came into this. I've never studied
6 the Clean Elections other than what I've done since I've
7 been on board which has now been, what, three weeks.

8 But my understanding from the whole movement by
9 the public to get a level playing field was to do that.

10 Part of achieving that, as I understand it, is with
11 regard to the airplane travel is not necessarily what
12 we're paying for the plane or what the candidate pays
13 for the plane or for the pilot or whatever, but it's the
14 value of that activity which must be reported by the
15 candidate which then enables opposing candidates to be
16 reimbursed from the Clean Elections for that value.

17 Do I misunderstand the whole objective of Clean
18 Elections?

19 MR. LANG: No.

20 COMMISSIONER KUNASEK: So -- so then the
21 discussion with regard to pilot getting paid/not getting
22 paid, it's the value that must be reported by the
23 receiving candidate which enables then the opposing
24 candidate to be reimbursed for that value in his
25 campaign.

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1 of course, we'll do.

2 All that said, I guess I would recommend we
3 stick with the proposed Version F that you see before
4 you here today. And I can craft some corrections to
5 paragraph 11, address Secretary Brewer's concerns and
6 also address your concerns about the language and the
7 other things down the road. But I think Ms. Lubin's
8 comments regarding timeliness are important to keep in
9 mind.

10 I would suggest the Commission take action and
11 I'll continue to try to improve the rules to make them
12 work for everyone. Ultimately, we're not going to have
13 a perfect solution. And we can always, you know, after
14 this election cycle revisit this issue.

15 CHAIRPERSON BUSCHING: Okay.

16 MR. ROSEN: Ma'am?

17 CHAIRPERSON BUSCHING: We've heard public
18 comment.

19 MR. ROSEN: It's a question that I brought up
20 previously that you haven't addressed. That was my
21 first question, what about somebody who is flying their
22 own plane that's campaigning?

23 CHAIRPERSON BUSCHING: Appreciate it. Thank
24 you.

25 Members of the Commission, let's turn to

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1 MS. VARELA: No.

2 COMMISSIONER KUNASEK: That's based on my
3 understanding of the fact that if you're not a Clean
4 Elections' candidate and you get a ton of money coming
5 in -- which I think happened in the last gubernatorial
6 race -- the Clean Elections' candidate had the excess
7 money matched.

8 Isn't that what happened?

9 MR. LANG: There were matching funds issued in
10 the last gubernatorial race, yes.

11 May I address --

12 CHAIRPERSON BUSCHING: Please.

13 MR. LANG: But Commissioner Kunasek, this isn't
14 -- I mean, matching funds could come into play. So
15 you're correct, if a non-participating candidate
16 received in-kind contribution that put them over the
17 limit in some fashion, that they were spending more
18 money depending on how the calculation would work if
19 you're in the primary or general. These kinds of
20 contributions could trigger matching funds.

21 But, primarily, this is designed not for that
22 scenario, but rather just to determine what the value of
23 such a contribution is. So that even if matching funds
24 don't come into play, we still have a reporting
25 requirement especially for the use of participating

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1 candidate's funds.
 2 COMMISSIONER KUNASEK: Okay. Now then, once
 3 those are reported and then the, whatever the threshold
 4 is, and then that contribution, the reported
 5 contribution, would go over the threshold, then it would
 6 have to be matched by the participating -- or to the
 7 participating candidate from the Clean Elections' fund.
 8 Am I missing something here?
 9 MS. VARELA: Well, if I may, it seems that
 10 you're sort of combining the two issues that Todd just
 11 explained. I think that depending on the amount of
 12 contributions that a non-participating candidate would
 13 get, it could -- this could come into play. It could
 14 potentially trigger matching funds for a participating
 15 candidate. But I think really what the kind of really
 16 the driving force is that all candidates are subject to
 17 reporting requirements so that you know how much they're
 18 spending and not spending. So that could trigger
 19 matching funds.
 20 Now -- but outside of that arena, outside of
 21 where we're not really looking at the matching funds
 22 issue, we need to know how much the Clean Elections'
 23 candidates are -- are getting and how much they're
 24 spending. Because, for example, in the David Burnell
 25 Smith case, it was only because of the reporting and the

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1 spend. You have your early contributions and then you
 2 get your primarily election funding and general election
 3 funding. You may get matching funds, but it's not going
 4 to be triggered by another participating candidate.
 5 MR. LANG: But in a sense, if I may add, that
 6 issue is not likely to come up because the whole purpose
 7 of this rule is to require participating candidates to
 8 pay and we're trying to figure out what a fair rate is.
 9 So, if they receive -- if Mr. Mays flies for some
 10 participating candidate and the candidate pays the
 11 appropriate amount under this policy, it won't be a
 12 contribution. They won't be in trouble. They will have
 13 paid for a service and so there's no contribution issue.
 14 COMMISSIONER KUNASEK: If they don't pay. They
 15 report it as a contribution because it's a service.
 16 MR. LANG: This policy would require them to
 17 pay for it, you know, at 99 cents a mile or the rental
 18 rate, whatever it may be, just for that reason. Because
 19 we don't want people to exceed their limits, we want to
 20 them to be able to use airplanes without violating the
 21 law. So, this requires them to pay for it.
 22 The debate or the problem is, what's a fair
 23 amount? And, as you heard, some say it should be much
 24 more and some say it should be much less. And so, you
 25 know, that's the problem.

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1 underlying documentation that we were able to determine
 2 that he had exceeded his primary election spending
 3 limit. And in that case he had exceeded it by 17
 4 percent which subjected him to forfeiture of office.
 5 So, the penalties -- first of all, there are
 6 penalties for not meeting the reporting requirements.
 7 And depending on the level of violation, I guess, the
 8 penalties can differ. So, the Clean Elections'
 9 candidates, they only get so much money to spend. We
 10 need to know that it's being spent properly. So, it's
 11 really more of a concern with reporting requirements,
 12 although the matching funds issue could come into place.
 13 COMMISSIONER KUNASEK: If both candidates were
 14 Clean Elections' candidates and one of the candidates
 15 received these things in contribution and that threw him
 16 over the limit, then would the opposing candidate be
 17 entitled to Clean Elections reimbursement?
 18 MS. VARELA: No. There would be -- it would be
 19 a violation on the part of the participating candidate
 20 who exceeded their contribution limit or their spending
 21 limit. Participating candidates are only allowed to
 22 receive so many -- so much in private contribution. So,
 23 once you've exceeded that, you're in violation of the
 24 Clean Elections' statutes and rules.
 25 You only have a certain amount of money to

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1 CHAIRPERSON BUSCHING: Any questions or
 2 discussion?
 3 I realize -- I'm looking at Item No. 11 and I
 4 realize that there's a tough balancing act that goes on
 5 and I'm looking at the second paragraph, "Travel
 6 expenses of candidate's spouse and immediate family on
 7 campaign-related travel shall be treated as a direct
 8 campaign expense and reportable expenditures of the
 9 spouse or immediate family member's campaign-related
 10 activities."
 11 I -- I mean -- have heard arguments both ways
 12 on this and I realize that there's, you know, arguments
 13 that can be made both ways. But I -- on reflection, I
 14 think that my preference would be to leave it as it was
 15 originally done and that is candidate's spouse and just
 16 leave it at a candidate's spouse and delete the words
 17 and family -- "and immediate family" in both places.
 18 But I'm willing to hear other comments or arguments of
 19 my fellow Commissioners on that.
 20 And then my own feeling is that as to
 21 substantive policy statement 12, I think that that's
 22 fine as revised.
 23 As to 13, having heard all of the arguments and
 24 everything, I think I would truly like staff to make an
 25 attempt to try and fold the vehicular and airplane

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1 policies into one and just set a different rate with
 2 respect to vehicles versus airplanes, because I think
 3 that will help go to simplification. I think it will
 4 make it more fair and it will -- obviously,
 5 simplification hopefully will lessen the confusion on
 6 it. So I would like to see that rewritten which would
 7 then include the comments that I made in (H) as well.
 8 But I am open -- since Commissioners are now in
 9 a point of discussion, I certainly am interested in
 10 hearing the --
 11 COMMISSIONER KUNASEK: Well, I would -- I would
 12 address both of your concerns. I would think that the
 13 concern on rewriting 12 is certainly appropriate. And I
 14 would also like to point out to staff, as I understand
 15 staff has been here six months or eight months, we all
 16 inherited this thing, so you shouldn't take any umbrage
 17 of having to rewrite something that's been on the book
 18 for seven years. I guess it goes with the playing field
 19 or comes with the game.
 20 With regard to the family members. Mrs.
 21 Lubin -- Ms. Lubin had addressed a situation which I'm
 22 very familiar with. I probably could not have won a
 23 statewide race without all members of my family
 24 participating. This was way before Clean Elections, but
 25 this is a big state. And to cover it and to cover all

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1 the villages and towns without an airport is impossible
 2 if we're going to have very restrictive guidelines, I
 3 guess, in place.
 4 I have -- we had about eight family members
 5 between children and spouses and my wife, and as one of
 6 my opposing candidates said: Every time I looked around
 7 there was part of the army. Well, I knew what he was
 8 referring to; because, we did, we covered the state. We
 9 put 40,000 miles, for example, on one vehicle and I had
 10 four vehicles running.
 11 To say that the immediate family is not going
 12 to be able to be treated as with campaign expense, I
 13 have difficulty agreeing with that just from my own
 14 experience.
 15 CHAIRPERSON BUSCHING: What I'm -- I think we
 16 may be saying the same thing. What I'm saying is
 17 immediate families would be treated purely as volunteers
 18 and would not -- their time, and travel, and everything
 19 would not have to reimburse the campaign.
 20 COMMISSIONER SCARAMAZZO: But you're including
 21 the spouse in with reporting?
 22 CHAIRPERSON BUSCHING: Exactly.
 23 COMMISSIONER KUNASEK: But can I pay for their
 24 gasoline and oil expenses out of the campaign?
 25 CHAIRPERSON BUSCHING: Yes.

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1 COMMISSIONER KUNASEK: Okay. That's a
 2 legitimate expense?
 3 CHAIRPERSON BUSCHING: As for any volunteer you
 4 can pay for a volunteer's expenses.
 5 COMMISSIONER KUNASEK: Okay. Because sometimes
 6 people do have families that participate and we
 7 should -- it should be recognized as well as allowed.
 8 CHAIRPERSON BUSCHING: Mr. Lang?
 9 MR. LANG: Madame Chair, Commissioners, our
 10 current rules allow, as you mentioned, allow the
 11 reimbursement of 10 to 40.5 cents a mile, but they also
 12 allow alternatively candidates can reimburse for gas --
 13 volunteers for gas. So, under -- if you create this
 14 exception for family members and allow them to be
 15 treated as volunteers so you don't have to pay them
 16 mileage, you can reimburse them for gas. It's not a
 17 required expense, it's a permissible expense that you
 18 can reimburse family members in that scenario you just
 19 discussed.
 20 COMMISSIONER SCARAMAZZO: By deleting
 21 "immediate family" out of paragraph 11, would take care
 22 of that?
 23 CHAIRPERSON BUSCHING: Uh-huh.
 24 MR. LANG: That's correct.
 25 COMMISSIONER SCARAMAZZO: Fine.

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1 CHAIRPERSON BUSCHING: Other discussion?
 2 Is it the wish of the Commissioners or
 3 staff that we vote on 11 today -- 11 and 12, and leave
 4 13 for the next meeting or how would you suggest that we
 5 handle that?
 6 MR. LANG: Since you're ready -- since you're
 7 not ready to move on 13, but it sounds like you are on
 8 11 and 12, we would certainly like you to enact 11 and
 9 12 -- the changes to 11 and 12.
 10 COMMISSIONER SCARAMAZZO: I'll go on record
 11 stating that I'm ready to move on 13 today to get this
 12 done and get people understanding what they're up
 13 against.
 14 CHAIRPERSON BUSCHING: Okay.
 15 COMMISSIONER KUNASEK: With the caveat that we
 16 might have to revisit it?
 17 COMMISSIONER SCARAMAZZO: I'm sure we're going
 18 to revisit it.
 19 CHAIRPERSON BUSCHING: Well, there's three of
 20 us.
 21 COMMISSIONER KUNASEK: Go ahead.
 22 COMMISSIONER SCARAMAZZO: For the sake of
 23 argument right now, I move to approve paragraphs 11 and
 24 12, reporting travel-related expenditures and allocation
 25 of campaign expenses between campaign- and

<p style="text-align: right;">Page 70</p> <p>1 non-campaign-related travel with the changes of deleting 2 "immediate family" in two sentences in paragraph 11. 3 Get that one on the floor. 4 CHAIRPERSON BUSCHING: Okay. 5 COMMISSIONER KUNASEK: I second that. 6 CHAIRPERSON BUSCHING: I think it's one 7 sentence. 8 COMMISSIONER SCARAMAZZO: One sentence, okay. 9 Two spots. Two areas. 10 CHAIRPERSON BUSCHING: And we're deleting the 11 word "short"? 12 COMMISSIONER SCARAMAZZO: Correct. 13 CHAIRPERSON BUSCHING: It's been moved by 14 Commissioner Scaramazzo and seconded by Commissioner 15 Kunasek that we approve policy 11 and 12, deleting the 16 reference to "immediate family" in 11 and the word 17 "short" in 12. 18 Mr. Lang? 19 MR. LANG: Thank you, Madame Chair. 20 Commissioners, just so you know, the rules version is 21 correct. The legislative version, for whatever reason, 22 has paragraph one listed twice, one without the edits 23 and one with the edits. Just in case anyone is going by 24 the legislative version. I don't think it will cause 25 any confusion, but obviously that first paragraph, the</p>	<p style="text-align: right;">Page 72</p> <p>1 COMMISSIONER SCARAMAZZO: I heard last meeting 2 that it was imperative that we get moving on this and I 3 heard people in the audience that this is a timely issue 4 that needed to be dealt with because of the campaigns 5 gearing up. So, I don't know that it does us a lot of 6 good to postpone this to another day. 7 CHAIRPERSON BUSCHING: I certainly appreciate 8 that comment, but I think my own personal feeling on it 9 is that we're going to have another meeting in two 10 weeks, we're talking about perhaps some pretty major 11 revisions if we combine these paragraphs, and I think 12 that the public knowing that if we're going to revisit 13 in two weeks, they're going to still feel the 14 uncertainty regardless and would much rather just wait 15 the two weeks and have the certainty. And particularly, 16 since we do have some actual substantive things that 17 staff has said they want to look at and gauge. That in 18 my own personal preference is to just, you know, realize 19 that we need -- we need to focus on this one more time 20 even if it is a couple of weeks. 21 COMMISSIONER KUNASEK: I would prefer to see 22 what -- I would hope that everybody could get together 23 and work out whatever differences are with the various 24 versions. Sometimes trying to work things out like 25 this, you might have to give a little to get what you</p>
<p style="text-align: right;">Page 71</p> <p>1 one without the edits is gone. 2 CHAIRPERSON BUSCHING: Okay. 3 COMMISSIONER KUNASEK: But I thought we were 4 discussing the rules? 5 COMMISSIONER SCARAMAZZO: We are. 6 MR. LANG: I just wanted to just -- 7 CHAIRPERSON BUSCHING: Okay. 8 COMMISSIONER KUNASEK: There was one other 9 change that was made in the rules version. 12(A) toward 10 the end, there was a capitalization that was 50 percent 11 -- or "than." 12 CHAIRPERSON BUSCHING: Than. 13 COMMISSIONER KUNASEK: "That" to "than". 14 COMMISSIONER SCARAMAZZO: Typo correction. 15 That's fine. 16 CHAIRPERSON BUSCHING: Okay. The Chair will 17 call for the question, all in favor of approving 18 substantive policy statements 11 and 12 with the three 19 changes noted, say "aye." 20 (Chorus of ayes.) 21 CHAIRPERSON BUSCHING: Chair votes aye. Motion 22 carries. 23 Let's move then to 13 and see if we can provide 24 some guidance to staff on where we're going to go on 25 that.</p>	<p style="text-align: right;">Page 73</p> <p>1 want. But that they can all be agreed upon so everybody 2 can support them. I hope. 3 CHAIRPERSON BUSCHING: Okay. So -- 4 COMMISSIONER KUNASEK: Two weeks. 5 CHAIRPERSON BUSCHING: You would postpone it 6 for -- 7 COMMISSIONER KUNASEK: Two weeks. 8 CHAIRPERSON BUSCHING: Do you want to make a 9 motion? 10 COMMISSIONER KUNASEK: Well, I would move that 11 Item 13 be continued to be worked on based on the 12 discussion that we held here this morning and that 13 perhaps not only clarification but an agreeable solution 14 can be found. 15 CHAIRPERSON BUSCHING: Okay. I'll second that. 16 And hopefully we'll have at least one more Commissioner 17 at that meeting as well. That will be good. 18 The Chair will call for the question, all in 19 favor of postponing Item 13 until the next meeting of 20 the Citizens Clean Elections Commission say "aye." 21 (Chorus of ayes.) 22 CHAIRPERSON BUSCHING: Chair votes aye. Motion 23 carries. 24 The next item on the agenda is Item V, call for 25 public comment. This is time for consideration and</p>

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1 discussion of comments and complaints from the public.
 2 Action taken as a result of public comment will be
 3 limited to directing staff to study the matter or
 4 rescheduling the matter for further consideration and
 5 decision at a later date or responding to criticism.

6 If there are any members of the public that
 7 wish to speak, I'm going to limit comments today to a
 8 minute a comment. So, is there any members of the
 9 public that wish to speak?

10 If not, Item VI, adjournment.

11 COMMISSIONER KUNASEK: I move that we adjourn.

12 COMMISSIONER SCARAMAZZO: Second.

13 CHAIRPERSON BUSCHING: It's been moved and
 14 seconded. All in favor say, "aye."

15 (Chorus of ayes.)

16 CHAIRPERSON BUSCHING: Chair votes aye. Motion
 17 carries. This meeting is adjourned.

18 Thank you very much.

19

20 (Whereupon the proceeding concluded at 11:05
 21 a.m.)

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1 C E R T I F I C A T E

2

3 I, Angela Furniss Miller, Certified Reporter,
 4 do hereby certify that the foregoing pages numbered 1
 5 through 74, inclusive, constitute a full and accurate
 6 printed record of my stenographic notes taken at said
 7 time and place, all done to the best of my skill and
 8 ability.

9 DATED, at Phoenix, this 30th day of March,
 10 2006.

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14 Angela Furniss Miller, RPR
 15 Certified Reporter (AZ50127)

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